

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION

CASE NO.: 7:09-CV-183-FL

Chris W. Taylor;)
William G. Harrison, Sr.;)
Linda Sheryl Lucas;)
Cathy Horton Hunt;)
Sharon Southwood; and)
Dorman and Brenda Beasley,)
for themselves)
and all others similarly situated,)

PLAINTIFFS,)

vs.)

Lee W. Bettis, Jr., Esq.;)
Pat Leigh Pittman, Esq.;)
Joanne K. Partin, Esq.;)
Robert L. Emanuel, Esq.;)
Stephen A. Dunn, Esq.;)
Raymond E. Dunn, Jr., Esq.;)
Emanuel & Dunn, PLLC,)
a North Carolina professional)
limited liability company and)
18 U.S.C. § 1961(4) association-in-fact;)
Bettis, Dunn & Dunn,)
a North Carolina general partnership)
and 18 U.S.C. § 1961(4) association-in-)
fact;)
Richard Jude Wasik, Esq.;)
Barrister Legal Services, P.C.,)
an Illinois corporation and 18 U.S.C.)
§ 1961(4) association-in-fact;)
W. Andrew Arnold, Esq.;)
The Law Offices of W. Andrew Arnold,)
P.C., a South Carolina corporation and)
18 U.S.C. § 1961(4) association-in-fact;)
CCDN, LLC,)
a Nevada limited liability company and)
18 U.S.C. § 1961(4) association-in-fact;)
R.K. Lock & Associates,)
an Illinois sole proprietorship and)

18 U.S.C. § 1961(4) association-in-fact)
doing business as CCDN or the Credit)
Collections Defense Network;)
Jen Devine;)
Robert K. Lock, Jr., Esq.;)
Colleen Tomasino Lock;)
Philip M. Manger, Esq.;)
S. John Hagenstein;)
Tracy Webster;)
Richard D. Russ;)
Ernest Greg Britt, Jr.;)
R & G Marketing,)
a Florida general partnership and 18)
U.S.C. § 1961(4) association-in-fact;)
Excell Marketing, LLC,)
a Florida limited liability company and)
18 U.S.C. § 1961(4) association-in-fact;)
The Credit Card Solution,)
a Texas sole proprietorship and 18)
U.S.C. § 1961(4) association-in-fact;)
Robert Mitchell Lindsey;)
Rodney Emil Brisco, Esq.;)
Aegis Corporation,)
a Missouri corporation and 18 U.S.C.)
§ 1961(4) association-in-fact;)
M. David Kramer; and)
Marcia M. Murphy,)
)
Defendants.)
)

MOTION TO DISMISS

COME NOW, W. Andrew Arnold and The Law Office of W. Andrew Arnold, P.C. (the “Arnold Defendants”), by and through the undersigned counsel, and move this Court pursuant to Federal Rules of Civil Procedure 12(b)(1), 12(b)(2) and 12(b)(6) for dismissal of the Plaintiffs’ Amended Complaint against them for lack of subject matter jurisdiction, lack of personal jurisdiction over the Arnold Defendants, and for failure to state a claim against the Arnold Defendants upon which relief can be granted. In support of these motions, the Arnold Defendants show the Court as follows:

1. That Plaintiffs assert claims for which there is no standing to pursue against the Arnold Defendants, and without Constitutional standing, this Court is without subject matter jurisdiction over the claims and such claims must be dismissed under Rule 12(b)(1).

2. That Plaintiffs' Amended Complaint fails to comply with the threshold pleading requirements of the Federal Rules of Civil Procedure, Ashcroft v. Iqbal, 2009 WL 1361536, 12-14 (U.S. May 18, 2009) and Bell Atlantic Corp. v. Twombly, 127 S.Ct. 1955, 1964-65, 167 L.Ed.2d 929 (2007), and accordingly, the Amended Complaint as it relates to the Arnold Defendants must be dismissed under Rule 12(b)(6).

3. That this court does not have personal jurisdiction over W. Andrew Arnold or the Law Office of W. Andrew Arnold, P.C. and, therefore, the claims against the Arnold Defendants must be dismissed under Rule 12(b)(2).

Accordingly, the Court should enter an Order dismissing the claims against the Arnold Defendants with prejudice.

This the 1st day of February, 2010.

/s/ MELODY J. CANADY
E-Mail: mcanady@cshlaw.com
N.C. State Bar No. 35360
Attorney for Defendant W. Andrew Arnold
CRANFILL SUMNER & HARTZOG LLP
1209 Culbreth Dr., Suite 200
Wilmington, North Carolina 28405
Telephone: 910/509-9778
Fax: 910/509-9676

CERTIFICATE OF SERVICE

I hereby certify that on February 1, 2010, I electronically filed the foregoing ***MOTION TO DISMISS*** with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Christopher W. Livingston 2154 Dowd Dairy Rd. White Oak, NC 28399 Chrisatty@hotmail.com <i>Attorney for the Plaintiffs</i>	Philip A. Collins BAILEY & DIXON, LLP P.O. Box 1351 Raleigh, NC 27602-1351 pcollins@bdixon.com <i>Attorney for Defendant Lee E. Bettis, Jr. and others</i>
---	--

/s/ MELODY J. CANADY

E-Mail: mcanady@cshlaw.com

N.C. State Bar No. 35360

Attorney for Defendant W. Andrew Arnold

CRANFILL SUMNER & HARTZOG LLP

1209 Culbreth Dr., Suite 200

Wilmington, North Carolina 28405

Telephone: 910/509-9778

Fax: 910/509-9676